

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ERICA F.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C22-850-MLP

ORDER

I. INTRODUCTION

Plaintiff seeks review of the denial of her application for Disability Insurance Benefits. Plaintiff contends the administrative law judge (“ALJ”) erred in assessing one medical opinion. (Dkt. # 11 at 1.) As discussed below, the Court AFFIRMS the Commissioner’s final decision and DISMISSES the case with prejudice.

II. BACKGROUND

Plaintiff was born in 1990, has a high school diploma, and has worked as a grocery store deli worker, fast-food manager, and casino restaurant server. AR at 177. Plaintiff was last gainfully employed in 2017. *Id.*

In May 2019, Plaintiff applied for benefits, alleging disability as of August 10, 2016. AR at 159-60. Plaintiff’s application was denied initially and on reconsideration, and Plaintiff

1 requested a hearing. *Id.* at 94-96, 98-102. After the ALJ conducted a hearing in December 2020
2 (*id.* at 39-70), the ALJ issued a decision finding Plaintiff not disabled before her date last insured
3 (“DLI”), June 30, 2019. *Id.* at 20-34.

4 As the Appeals Council denied Plaintiff’s request for review, the ALJ’s decision is the
5 Commissioner’s final decision. AR at 6-11. Plaintiff appealed the final decision of the
6 Commissioner to this Court. (Dkt. # 4.)

7 **III. LEGAL STANDARDS**

8 Under 42 U.S.C. § 405(g), this Court may set aside the Commissioner’s denial of social
9 security benefits when the ALJ’s findings are based on legal error or not supported by substantial
10 evidence in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 (9th Cir. 2005). As a
11 general principle, an ALJ’s error may be deemed harmless where it is “inconsequential to the
12 ultimate nondisability determination.” *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012)
13 (cited sources omitted). The Court looks to “the record as a whole to determine whether the error
14 alters the outcome of the case.” *Id.*

15 “Substantial evidence” is more than a scintilla, less than a preponderance, and is such
16 relevant evidence as a reasonable mind might accept as adequate to support a conclusion.
17 *Richardson v. Perales*, 402 U.S. 389, 401 (1971); *Magallanes v. Bowen*, 881 F.2d 747, 750 (9th
18 Cir. 1989). The ALJ is responsible for determining credibility, resolving conflicts in medical
19 testimony, and resolving any other ambiguities that might exist. *Andrews v. Shalala*, 53 F.3d
20 1035, 1039 (9th Cir. 1995). While the Court is required to examine the record as a whole, it may
21 neither reweigh the evidence nor substitute its judgment for that of the Commissioner. *Thomas v.*
22 *Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When the evidence is susceptible to more than one
23 rational interpretation, it is the Commissioner’s conclusion that must be upheld. *Id.*

IV. DISCUSSION

Dean Williams, M.D., Plaintiff's treating physician, completed a form opinion in December 2019 indicating that, *inter alia*, Plaintiff could occasionally lift 10 pounds and frequently lift less than 10 pounds, could stand/walk less than two hours in an eight-hour workday, and could sit less than six hours in an eight-hour workday. AR at 814-20. Dr. Williams also found that Plaintiff could occasionally climb ramps and stairs, balance, and stoop, but could never climb ladders/rope/scaffolds, kneel, crouch, or crawl. *Id.* at 816.

The ALJ found Dr. Williams's opinion unpersuasive because: (1) it was written months after Plaintiff's DLI, "and is therefore of limited relevance to the claimant's functioning during the period at issue"; and (2) Dr. Williams's conclusions are inconsistent with the records dating to the adjudicated period, which show that Plaintiff did not require crutches for ambulation and did not have other significant deficits in physical functioning. AR at 31-32. The ALJ acknowledged that Dr. Williams's opinion was well-supported with references to clinical findings, and that she agreed that Plaintiff had reaching limitations on the left, but otherwise found Dr. Williams's opinion to be inconsistent with evidence dating to the adjudicated period. *Id.* at 32.

Under regulations applicable to this case, the ALJ is required to articulate the persuasiveness of each medical opinion, specifically with respect to whether the opinions are supported and consistent with the record. 20 C.F.R. § 404.1520c(a)-(c). An ALJ's consistency and supportability findings must be supported by substantial evidence. *See Woods v. Kijakazi*, 32 F.4th 785, 792 (9th Cir. 2022).

Plaintiff contends that the ALJ's consistency finding is erroneous because Dr. Williams explicitly referenced evidence dating to the adjudicated period, which indicates that although he

1 completed his form opinion after Plaintiff's DLI, the opinion nonetheless refers back to her
2 functioning during the adjudicated period and thus should not have been discounted based on
3 timing. (Dkt. # 11 at 4-5.) As support for this argument, Plaintiff cites Dr. Williams's reference
4 to Plaintiff's left shoulder rotator cuff tendinopathy diagnosed via ultrasound in April 2018, as
5 well as her April 2019 lumbar MRI showing disc herniation with displacement of the left L5
6 nerve root, and her use of crutches to ambulate. (*Id.* (citing AR at 815).)

7 But Dr. Williams's reference to various conditions diagnosed during the adjudicated
8 period does not establish that those conditions resulted in the functional limitations identified by
9 Dr. Williams during the adjudicated period. For example, the ALJ found that Plaintiff's lumbar
10 spine condition was not severe at step two due to Plaintiff's lack of treatment for or complaints
11 of lumbar problems during the adjudicated period (AR at 24), and Plaintiff did not challenge that
12 finding, which undermines Plaintiff's contention that her lumbar spine condition caused
13 disabling limitations during the adjudicated period. Plaintiff herself acknowledges that the
14 evidence supporting her allegations of back pain during the adjudicated period is "scant" (dkt. #
15 11 at 6-7) and does not explain why this dearth of evidence must be construed as supporting the
16 existence of disabling limitations. The ALJ reasonably found that minimal evidence of back
17 complaints/treatment during the adjudicated period undermined Plaintiff's allegation of disabling
18 back-related limitations, and the Court finds no error in that interpretation. *See Morgan v.*
19 *Comm'r of Soc. Sec. Admin.*, 169 F.3d 595, 599 (9th Cir. 1999) ("Where the evidence is
20 susceptible to more than one rational interpretation, it is the ALJ's conclusion that must be
21 upheld.").

22 The ALJ also acknowledged that Plaintiff was diagnosed with left shoulder rotator cuff
23 tendinopathy during the adjudicated period and found that the evidence confirmed that Plaintiff

1 would have reaching limitations with her left arm (AR at 31, 32), but the ALJ also cited findings
2 of improvement with treatment and full arm strength and normal sensation on testing. *Id.* at 29-
3 30 (citing *id.* at 265-66, 290-91, 591-92). Dr. Williams did not point to objective clinical findings
4 that corroborate the limitations he identified, and the ALJ's decision cites objective evidence that
5 can be reasonably found inconsistent with Dr. Williams's opinion that Plaintiff had limited
6 function of her left arm beyond those limitations acknowledged by the ALJ.

7 For these reasons, the Court finds that Dr. Williams's reference to Plaintiff's diagnoses
8 made during the adjudicated period does not undermine the ALJ's assessment of Dr. Williams's
9 opinion. The ALJ cited substantial evidence supporting her finding that those conditions did not
10 result in disabling limitations during the adjudicated period.

11 Furthermore, although Dr. Williams also referenced Plaintiff's use of crutches for
12 ambulation as support for his conclusions, the ALJ noted that Plaintiff was not prescribed
13 crutches until after the adjudicated period and Plaintiff did not challenge this finding. *See* AR at
14 29 (citing *id.* at 933). The ALJ reasonably found that because Plaintiff did not require crutches
15 for ambulation during the adjudicated period, Dr. Williams's reference to Plaintiff's crutches
16 suggested that his opinion was based on post-DLI evidence and did not reflect Plaintiff's
17 functioning during the adjudicated period. *See id.* at 32.

18 For all of these reasons, Plaintiff has failed to satisfy her burden to show that the ALJ
19 harmfully erred when finding Dr. Williams's opinion inconsistent with the medical evidence
20 dating to the adjudicated period and discounting it on that basis.

21 V. CONCLUSION

22 For the foregoing reasons, the Commissioner's final decision is **AFFIRMED**, and this
23 case is **DISMISSED** with prejudice.

1 Dated this 12th day of December, 2022.

2 

3 MICHELLE L. PETERSON
4 United States Magistrate Judge